

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-1255

TONY COLIDA,

Plaintiff-Appellant,

v.

PANASONIC CORPORATION OF NORTH AMERICA
and MATSUSHITA ELECTRONIC CORPORATION OF AMERICA,

Defendants-Appellees.

Appeal from the United States District Court for the District of New Jersey in
case no. 05-CV-5527, Judge Joseph A. Greenaway, Jr.,
and Magistrate Judge Madeline C. Arleo.

ON MOTION

Before BRYSON, Circuit Judge.

ORDER

Tony Colida submits a motion for leave to proceed in forma pauperis on appeal.

It appears that Colida is attempting to appeal a district court order denying his motion to reopen his case and denying his motion for leave to proceed in forma pauperis in that court. With his notice of appeal, Colida also submitted to the district court a motion to extend or reopen the time to file an appeal. It appears that the district court has not ruled on the motion to extend or reopen the time to file an appeal. If the district court does not extend or reopen the time to file an appeal, then Colida's appeal is clearly untimely.

We also note that, before moving for leave to proceed in forma pauperis in this court, Colida must file with the district court a motion for leave to proceed in forma pauperis on appeal. Fed. R. App. P. 24(a)(1). If the district court grants the motion, then Colida may proceed in forma pauperis in this court on appeal. If the district court denies the motion, then within 30 days of the district court's order denying his request to proceed in forma pauperis on appeal, Colida may request that this court permit him to proceed in forma pauperis on appeal and must include a copy of the district court's order. Fed. R. App. P. 24(a)(5).

Accordingly,

IT IS ORDERED THAT:

(1) The briefing schedule is stayed for 60 days, to allow time for the district court to decide Colida's motion to extend or reopen the time to appeal. Either party should promptly inform this court if the district court acts on the motion.

(2) Colida's motion for leave to proceed in forma pauperis is rejected. Colida must pay the docketing fee within 30 days of the date of filing of this order, unless he notifies this court that he has moved for leave to proceed in forma pauperis on appeal in the district court.

FOR THE COURT

JUN 11 2009

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Tony Colida
Peter J. Pizzi, Esq.
United States District Court, District of New Jersey, Judge

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

JUN 11 2009

JAN HORBALY
CLERK